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**OFFICE OF PETITIONS**

In re Application of :  
William R. Dubrul :  
Application No. 10702611 : DECISION ON PETITION  
Filed: 11/07/2003 :  
Attorney Docket No. 021016-1 :

This is a decision on the petition filed on October 31, 2007,  
under 37 CFR 1.137(b),<sup>1</sup> to revive the above-identified  
application.

The petition is **GRANTED**.

The application became abandoned on December 6, 2006, for failure  
to submit a timely response to the Notice of Allowance and Fee(s)  
Due mailed on September 5, 2006, which set a three (3) month  
statutory period for reply. Notice of Abandonment was mailed on  
March 5, 2007.

It is not apparent whether the person signing the statement of  
unintentional delay was in a position to have firsthand or direct  
knowledge of the facts and circumstances of the delay at issue.  
Nevertheless, such statement is being treated as having been made  
as the result of a reasonable inquiry into the facts and

<sup>1</sup> Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay  
in reply was unintentional, a petition may be filed to revive an abandoned application or a  
lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37  
CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application  
abandoned for failure to prosecute, the required reply may be met by the filing of a continuing  
application. In a nonprovisional utility or plant application filed on or after June 8, 1995,  
and abandoned for failure to prosecute, the required reply may also be met by the filing of a  
request for continuing examination in compliance with § 1.114. In an application or patent,  
abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply  
must be the payment of the issue fee or any outstanding balance thereof. In an application,  
abandoned for failure to pay the publication fee, the required reply must include payment of the  
publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for  
the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.  
The Commissioner may require additional information where there is a question whether the delay  
was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to  
37 CFR 1.137(c)).

circumstances of such delay.<sup>2</sup> In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Receipt of the issue fee and petition fee is acknowledged.

The publication fee will be charged to counsel's deposit account as authorized on the Fee(s) Transmittal filed with the present petition.

The application is referred to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood  
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Office of Petitions

Cc:

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<sup>2</sup> See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).